

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

INCOME TAX REFERENCE NO.205 OF 1996

M/s.Laxmichand Bhagaji. .. Applicant
V/s
Dy.Commissioner of I.T., Mumbai .. Respondents
Ms.Asifa Khan i/by Mr.A.K.Jasani for the Applicant.
Mr.A.Kotangale for the Respondent.

**CORAM : DR.S.RADHAKRISHNAN &
J.P.DEVADHAR, JJ.**

DATE : 13th March, 2007.

P.C.:

1. Heard the learned Counsel for the parties. This matter pertains to the Assessment Year 1985-1986.

2. The Tribunal has referred the following question of law, for the opinion of this Court:-

Whether on the facts and in the circumstances of the case and on the true interpretation of sec.271(1)(c) read with Explanation 4(a) of the Act, penalty could be levied when the income returned and the income assessed was a loss?

3. The learned Counsel for both the parties categorically state that the above question involved in this matter is squarely covered by a decision of the Apex Court in the case of **Virtual Soft Systems Limited V/s.Commissioner of Income Tax - (2007) 289 ITR 83 (SC)**, in favour of the Assessee and against the Revenue. In view thereof, the Reference is disposed of by answering the question in favour of the Assessee and against the Revenue.

(J.P.DEVADHAR, J.)

(DR.S.RADHAKRISHNAN, J.)